

State of Maine
Board of Licensure in Medicine
137 State House Station, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of September 14, 2010
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**State of Maine
Board of Licensure in Medicine
137 State House Station, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of September 14, 2010**

BOARD MEMBERS PRESENT

Sheridan R. Oldham, M.D., Chairman
Gary R. Hatfield, M.D., Board Secretary
Cheryl D. Clukey
George K. Dreher, M.D.
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
Bettsanne Holmes
David D. Jones, M.D.
David Nyberg, Ph.D.
Ms. Clukey was excused at 4:45 p.m.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Mark C. Cooper, M.D., Medical Director
Dan Sprague, Assistant Executive Director
Jean M. Greenwood, Administrative Assistant
Tim Terranova, Consumer Assistant
ATTORNEY GENERAL'S OFFICE
Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential 1 M.R.S. §405, 10 M.R.S. §8003-B, 22 M.R.S. § 1711-C, and 24 M.R.S. § 2510. The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by POWERPoint projection.

PUBLIC SESSIONS

9:09 a.m. – 9:12 a.m.
10:43 a.m. – 10:57 a.m.
11:09 a.m. – 11:10 a.m.
11:35 a.m. – 11:38 a.m.
11:40 a.m. – 11:41 a.m.
11:59 a.m. – 12:00 p.m.
1:10 p.m. – 1:40 p.m.
1:46 p.m. - 1:47 p.m.
2:34 p.m. – 2:34 p.m.
2:41 p.m. – 4:09 p.m.
4:26 p.m. – 5:15 p.m.

PURPOSE

Call to order
Motions on Progress Reports & New Complaints
Public Session
Motion on Informal Conference
Public Session
Motion on Informal Conference
Public Session
Public Session
Public Session
Public Session
Public Session

EXECUTIVE SESSION

9:12 a.m. – 10:43 a.m.
11:10 a.m. – 11:35 a.m.
11:41 a.m. – 11:59 a.m.
1:47 p.m. – 2:34 p.m.

Progress Reports & New Complaints
Informal Conference CR 09-361
Informal Conference CR 09-468
Informal Conference CR 08-256

RECESS

10:57 a.m. – 11:09 a.m.
11:38 a.m. – 11:40 a.m.
12:00 p.m. – 1:10 p.m.
1:40 p.m. – 1:46 p.m.

Noon Meal

2:35 p.m. – 2:41 p.m.

4:09 - 4:26 p.m.

I. CALL TO ORDER

Dr. Oldham called the meeting to order at 9:09 a.m.

A. AMENDMENTS TO THE AGENDA

1. AD 10-403 was amended to the agenda at Section IV (63) Assessment & Direction.

B. SCHEDULED AGENDA ITEMS

11:00 a.m. CR 09-361

11:30 a.m. CR 09-468

12:00 p.m. Retirement Luncheon for Ms. Holmes

1:00 p.m. Maine Medical Center Representatives

1:30 p.m. CR 08-256

EXECUTIVE SESSION

II. PROGRESS REPORTS

1. CR 08-446 CALVIN P. FUHRMANN, M.D.

Dr. Dreher moved to dismiss, with a letter of guidance, the Board complaint in the matter of CR 08-446 Calvin P. Fuhrmann, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

This case arose out of concerns Dr. Fuhrmann was providing controlled medications with inadequate monitoring and documentation of care.

After reviews of multiple charts along with consultation, all to provide guidance for improvements in his provision of care, Dr. Fuhrmann has shown progress. He still has opportunities to improve his quality of care using the model of universal precautions, careful monitoring and other considerations as outlined by the most recent multi-chart review.

The Board expects Dr Fuhrmann to continue his process of practice improvement particularly with patients receiving controlled medications on a chronic basis.

2. CR 09-308

Dr. Dreher moved to order an Informal Conference in the matter of CR 09-308. Dr. Nyberg seconded the motion, which passed unanimously.

3. CR 10-034

Dr. Jones moved to investigate further CR 10-034. Dr. Dumont seconded the motion, which passed unanimously.

4. CR 10-206

Dr. Gleaton moved to investigate further CR 10-206 and order a 3286. Dr. Dumont seconded the motion, which passed unanimously.

With regard to CR 10-206 a motion has been received to quash the subpoena for ten patient records which were requested by the Board for review.

Dr. Jones moved to table the motion to quash the subpoena pending further review. Dr. Dumont seconded the motion, which passed unanimously.

5. CR 09-439 JOHN M. DORN, M.D.

Dr. Gleaton moved to order an Adjudicatory Hearing in the matter of CR 09-439 John M. Dorn, M.D. and combine the case with CR 10-099. Dr. Dreher seconded the motion, which passed unanimously.

6. CR 10-099 JOHN M. DORN, M.D.

Dr. Gleaton moved to order an Adjudicatory Hearing in the matter of CR 09-009 John M. Dorn, M.D. and combine the case with CR 10-439. Dr. Dreher seconded the motion, which passed unanimously.

7. CR 09-456 ALICE C. ANDROKITES, M.D.

Ms. Holmes moved to deny Dr. Androkites' request to rescind the Board's action to resolve CR 09-456 taken at the May 11, 2010 meeting when the Board accepted Dr. Androkites' offer to withdraw her license from registration while under investigation, which is reportable to the National Practitioner Data Bank (NPDB). Dr. Dreher seconded the motion, which passed unanimously.

8. CR 10-038

Dr. Jones moved to dismiss CR 10-038. Dr. Dumont seconded the motion, which passed unanimously.

The care of a patient when divided among specialists and primary care providers is dependant on clear communication. There is no documentation that the specialist in this complaint actually requested the primary care provider not to prescribe the same medicines that the specialist was also prescribing for this patient.

The Board encourages good communication between medical providers sharing the care of a patient so that there will be less likelihood of errors in prescribing.

9. COMPLAINT STATUS REPORT (FYI)

10. REVIEW DRAFT LETTERS OF GUIDANCE

A. CR 10-063 MICHAEL E. SZELA, M.D.

Dr. Jones moved to approve the Letter of Guidance to Michael E. Szela, M.D. Dr. Nyberg seconded the motion, which passed unanimously.

B. CR 10-116 PHILIP T. PEVERADA, M.D.

Dr. Jones moved to approve the Letter of Guidance to Philip T. Peverada, M.D. Dr. Dreher seconded the motion, which passed unanimously.

C. CR 10-103 WILLIAM A. DEMICCO, M.D.

Dr. Gleaton moved to approve the Letter of Guidance to William A. Demicco, M.D. Dr. Jones seconded the motion, which passed unanimously.

D. CR 09-210 MOHAMOUD Y. HINDI, M.D.

Dr. Nyberg moved to approve the Letter of Guidance to Mohamoud Y. Hindi, M.D. Dr. Dreher seconded the motion, which passed unanimously.

E. CR 10-179 SANJAY GUPTA, M.D.

Dr. Dumont moved to approve the Letter of Guidance to Sanjay Gupta, M.D. Dr. Jones seconded the motion, which passed unanimously.

F. CR 10-180 GEORGE A. CANCEL, M.D.

Dr. Dumont moved to approve the Letter of Guidance to George A. Cancel, M.D. Dr. Hatfield seconded the motion, which passed unanimously.

G. CR 10-041 BURT YANKIVER, M.D.

Dr. Dumont moved to approve the Letter of Guidance to Burt Yankiver, M.D. with a minor typographical correction. Dr. Gleaton seconded the motion, which passed unanimously.

H. CR 10-042 MATTHEW R. CAMUSO, M.D.

Dr. Dumont moved to approve the Letter of Guidance to Matthew R. Camuso, M.D. Dr. Nyberg seconded the motion, which passed unanimously.

I. CR 10-043 CHERYL S. DeGRANDPRE, PA-C.

Dr. Dumont moved to approve the Letter of Guidance to Cheryl S. DeGrandpre, PA-C with a minor typographical correction. Dr. Gleaton seconded the motion, which passed unanimously.

J. CR 10-089 DAVID S. HILL, M.D.

Dr. Dumont moved to approve the Letter of Guidance to David S. Hill, M.D. Dr. Jones seconded the motion, which passed unanimously.

13. CONSUMER ASSISTANT FEEDBACK (FYI)

III. NEW COMPLAINTS

14. CR 10-102

Dr. Dumont moved to dismiss CR 10-102. Dr. Hatfield seconded the motion, which passed unanimously.

The issues have to do with an accidental fall on the way to an Emergency Department (ED) for tests and a somewhat confusing experience at the ED. The physician named in the complaint cannot be faulted for the accident or for the subsequent experience in the ED, as he was not present. He has provided proper and professional care for the patient over a period of time and continues to do so.

15. CR 10-244

Ms. Clukey moved to dismiss CR 10-244. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges she was treated unprofessionally in being dismissed from the physician's practice. The physician explains that the patient seriously misused prescribed drugs that interfered with a scheduled stress test and later failed a mandatory drug screen. The physician was within his rights in dismissing the patient and there is no indication of any unprofessional conduct in the file.

16. CR 10-245

Ms. Clukey moved to dismiss CR 10-245. Ms. Holmes seconded the motion, which passed unanimously.

The complainant alleges the physician discriminated against him because of his nationality. The physician denies this allegation and explains he dismissed the patient from his practice because

the patient failed a mandatory drug screen. The physician acted professionally in dismissing the patient.

17. CR 10-161

Dr. Hatfield moved to dismiss CR 10-161. Dr. Gleaton seconded the motion, which passed unanimously.

In this case, a patient complains that the treatment for his condition was ineffective and the physician was refusing to see him. The physician explains his treatment and the institutional situation that made care difficult. He and the patient have subsequently had positive visits. The patient requests to have his complaint withdrawn.

18. CR 10-164

Dr. Hatfield moved to dismiss CR 10-164. Dr. Dumont seconded the motion, which passed unanimously.

The patient complains that the physician refused to evaluate his skin lesion, which he feared was malignant. The physician explains that the patient was removed from his schedule without his knowledge. The patient was seen subsequently by a different provider and diagnosed with a benign condition. The patient wishes to withdraw his complaint.

19. CR 10-162

Dr. Dumont moved to dismiss CR 10-162. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that the physician failed to treat his medical condition appropriately, and told him that a previously ordered MRI was not approved and that he thought he had arthritis. The physician responded by indicating that the patient was seen by other medical providers on multiple occasions for the medical condition; that the physician only saw the patient on one occasion for the medical condition; that the physician did not recall making a statement that the MRI was not approved; and that the MRI was in fact approved and indicated findings consistent with the medical treatment provided to the patient. Review of the medical records corroborates the physician's response.

20. CR 10-238

Dr. Jones moved to dismiss CR 10-238. Dr. Gleaton seconded the motion, which passed unanimously.

In this case, the patient complains that she required two separate operations to treat her condition adequately. She states she had signed a consent form for a complete procedure at the first operation and questions why it was not performed, resulting in a second operation and added expense. The doctor responds that this was a benign condition and her goal, as a first step, was

to perform the least amount of surgery that would resolve the patient's problem. She explains that patients are often consented for any and all procedures that may occur during surgery. The medical record indicates the approach taken to address the patient's problem was reasonable.

21. CR 10-239

Dr. Jones moved to dismiss CR 10-239. Dr. Nyberg seconded the motion, which passed unanimously.

The patient complains the physician misdiagnosed her condition and was rude and condescending during her visit. The medical record documents an appropriate evaluation even if the diagnosis, while plausible, was not ultimately correct. The physician denies being condescending. It is impossible to know what was actually said during the exam from the medical record.

22. CR 10-240

Dr. Jones moved to order an Informal Conference in the matter of CR 10-240. Dr. Nyberg seconded the motion, which passed unanimously.

23. CR 10-199

Dr. Dumont moved to dismiss CR 10-199. Ms. Holmes seconded the motion, which passed unanimously.

The patient complains that he received negligent care for a hand injury in the emergency room. Review of the medical record shows appropriate care. The patient chose to go to another facility and this delayed treatment of an infection.

24. CR 09-540

Dr. Jones moved to dismiss CR 09-540. Dr. Nyberg seconded the motion, which passed 5-4.

Although there is some question about the medical management of the patient's care as noted by an outside reviewer, and the patient's informed choices were not well documented in the medical record, the Board does not feel the physician's conduct rises to a level requiring further action by the Board.

25. CR 10-035

Dr. Gleaton moved to dismiss CR 10-035. Dr. Dumont seconded the motion, which passed 8-1.

A physician was denied reappointment to the medical staff of a Maine hospital. The Board reviewed the information surrounding the denial, including patient cases and sundry hospital documents. The Board has recently issued a Reprimand to this physician for unprofessional behavior, and no further licensure action is recommended at this time.

26. CR 10-200

Dr. Dreher moved to investigate further CR 10-200. Dr. Dumont seconded the motion, which passed unanimously.

27. CR 10-204

Dr. Dreher moved to dismiss CR 10-204. Dr. Jones seconded the motion, which passed unanimously.

The daughter of a patient complains the physician has not adequately treated her mother and acted unprofessionally and inappropriately with her. She alleges the physician has hugged and kissed her mother and cried in front of her in a manner that might be discouraging. She also alleges inadequate medical care relating to her mother's heart disease, need for oxygen and treatment of back pain.

The physician denies having cried in front of the patient or having an overly emotional bond with her. The record indicates the patient's husband was present during many of the patient's appointments. The medical record indicates appropriate care for her medical conditions including being given the options for consultations or other evaluations. The patient has a continuing relationship with the physician and the records do not suggest the patient lacks adequate capacity to make her own decisions.

28. CR 10-205

Dr. Gleaton moved to dismiss CR 10-205. Dr. Jones seconded the motion, which passed unanimously.

A complaint was brought to the Board by a primary care physician against a dermatologist who was treating a patient with methotrexate for psoriasis. The primary care physician felt that the dermatologist should have monitored the patient more closely for the development of liver toxicity. It should be noted that this patient was treated over a 10-year period with the drug and was seen by seven gastroenterologists among other specialists for multiple concomitant medical problems. Irregular compliance by the patient, along with suboptimal coordination and communication among the multiple treating physicians made this case very difficult. After careful review, the Board finds that the dermatologist did a reasonable job in caring for this patient, and it is unclear that the therapy resulted in harm to the patient.

29. CR 10-215

Dr. Dumont moved to dismiss CR 10-215. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant alleges that the physician improperly performed a medical procedure on the complainant's father, and that the hospital failed to contact him immediately upon his father's

transfer to ICU. The physician responded by describing the medical procedure performed, including informing the patient and his son of the possible benefits and complications from the procedure in light of the patient's condition and medications. In addition, the physician indicated that the hospital called the patient's son and left a message shortly after he was transferred to ICU. Review of the medical records corroborates the physician's response, and indicates appropriate care and treatment of the patient who has had a complicated and serious medical history.

30. CR 10-222

Dr. Dreher moved to dismiss CR 10-222. Dr. Dumont seconded the motion, which passed unanimously.

The parents of the patient complain that the physician, a surgeon, was rude in response to their questions, recommended therapy but did not follow up with the therapist, and did not treat the patient according to a plan. The patient was referred to the surgeon by her primary care physician (PCP) for an arm injury. Extensive testing determined she was not a candidate for surgery and that her persistent problems were likely caused by reflex sympathetic dystrophy, a complex phenomenon not easily understood. The patient and her parents were frustrated with this situation and wanted the physician to "fix" the patient. Records indicate that appropriate therapy was recommended and monitored by the physician. When it became apparent the patient had a chronic pain problem and not a surgical problem, the physician properly referred the patient to her PCP for pain management. The Board finds no fault with the way the physician dealt with this case.

31. CR 10-224

Dr. Jones moved to order an Informal Conference in the matter of CR 10-224. Ms. Holmes seconded the motion, which passed unanimously.

32. CR 10-236

Dr. Hatfield moved to dismiss CR 10-236. Dr. Dumont seconded the motion, which passed unanimously.

The patient complains that his surgeon performed an unprofessional and incompetent hernia repair for an incarcerated inguinal hernia. Review of the medical records shows appropriate informed consent and surgical technique.

33. CR 10-266

Dr. Hatfield moved to dismiss CR 10-266. Dr. Dumont seconded the motion, which passed unanimously.

The patient complains that this urologist gave a deceitful and dishonest second opinion. The patient sought the doctor's advice regarding symptoms he experienced following surgery for an

incarcerated hernia. The medical record shows an appropriate exam and well-reasoned opinion. The allegations of deceit and dishonesty are unsubstantiated.

34. CR 10-242

Ms. Clukey moved to dismiss CR 10-242. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that the physician improperly performed a medical procedure. The physician responded by indicating that he performed the medical procedure in accordance with accepted standards, which was corroborated by a review of his medical care. Review of the medical records fully corroborates the physician's response that the care provided was appropriate.

35. CR 10-243

Dr. Hatfield moved to investigate further CR 10-243. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Dreher recused.

36. CR 10-246

Ms. Clukey moved to dismiss CR 10-246. Dr. Jones seconded the motion, which passed unanimously.

In this case a patient complains that a specialist physician performed a breast exam on two occasions. The physician explains that she was offered a chaperone, and that a breast exam is an appropriate part of a thorough physical exam.

37. CR 10-247 DAVID B. ROBINSON, M.D.

Dr. Nyberg moved to dismiss with a letter of guidance CR 10-247 David B. Robinson, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

The Board's complaint alleges Dr. Robinson failed to meet his professional obligation to complete and sign patient charts in a timely manner. He became so delinquent during a period of almost 14 months of employment that he was terminated. While there may well have been extenuating circumstances, including personal health issues, ultimately there is no excuse for such neglect of an important professional responsibility. The Board commends Dr. Robinson for taking two time management courses on his own initiative, and for continuing with medical treatment. The Board will issue a letter of guidance with regard to the seriousness of this situation.

38. CR 10-248 MICHAEL J. FESTINO, M.D.

Dr. Nyberg moved to order an Adjudicatory Hearing in the matter of CR 10-248 Michael J. Festino, M.D. Dr. Hatfield seconded the motion, which passed unanimously.

39. CR 10-255

Dr. Gleaton moved to dismiss CR 10-255. Dr. Dumont seconded the motion, which passed unanimously.

A patient complains that his dilated eye exam seemed to lead to a condition of diplopia occurring when he tried to use his computer after watching TV. The diplopia would persist for one and a half hours. Review of the records, which include a referral letter to the treating physician against whom this complaint was registered, exam records and several physician letters, indicates that both the patient and the physician were uncomfortable with their communications. The ophthalmic care was reasonable and adequate but optimum mutual communication and understanding was never achieved. The doctor appropriately suggested that the patient seek care elsewhere.

40. CR 10-258

Dr. Gleaton moved to investigate further CR 10-258. Dr. Jones seconded the motion, which passed unanimously.

41. CR 10-259

Ms. Clukey moved to dismiss CR 10-259. Ms. Holmes seconded the motion, which passed unanimously.

The patient complains that this primary care doctor has falsely accused her of inappropriate use of her medications and has talked with other doctors making it difficult for her to get medical care. Review of the medical records shows that proper protocol was not followed by the physician for a urine drug screen which was positive for cocaine and negative for the medications that were prescribed. However, there is ample evidence in the medical record (PMP) that the patient has lied about her prescriptions and has been deceitful in obtaining multiple prescriptions. The doctor was justified in declining to prescribe controlled medications for this patient. Conversations with other physicians were medically appropriate and covered by signed consents.

42. CR 10-263

Ms. Holmes moved to dismiss CR 10-263. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges the physician refused to answer some general medical questions, to recommend a textbook, or to make a referral. The physician explains that the complainant was referred to her office for an appointment but when he arrived he was not interested in diagnosis or treatment. It was not clear what he wanted from her. He would not make his medical records available so it was difficult to know how to answer his questions or to recommend specific reading materials. The physician thought it better to send the complainant back to his primary

care physician for any subsequent referrals. The complainant would not release his records for the Board to see, so the file is incomplete. The Board finds no fault with the way the physician dealt with this unusual situation.

43. CR 10-269

Dr. Jones moved to investigate further CR 10-269. Dr. Gleaton seconded the motion, which passed unanimously.

44. CR 10-276

Dr. Jones moved to investigate further CR 10-276. Ms. Clukey seconded the motion, which passed unanimously.

45. CR 10-277

Dr. Dumont moved to investigate further CR 10-277. Dr. Hatfield seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

46. CR 10-279

Dr. Gleaton moved to dismiss CR 10-279. Dr. Dumont seconded the motion, which passed 7-2.

The Board of Licensure in Medicine was alerted that a physician was prescribing medication for patients without performing physical examinations or establishing a traditional physician-patient relationship. Review of documentation indicates that the physician initiated a website that suggested medications could be obtained without patient examination. The doctor emphatically states there were never any live links to accomplish this and he has never prescribed medicine without formal patient examination. The physician has taken down the website and closed the practice represented there.

47. CR 10-282

Dr. Dreher moved to investigate further CR 10-282. Dr. Jones seconded the motion, which passed unanimously.

48. CR 10-292

Dr. Dumont moved to dismiss CR 10-292. Ms. Clukey seconded the motion, which passed unanimously.

This case involves a patient who suffered a perforated colon from an attempted colonoscopy. Patient alleges the physician rushed through the procedure after taking an inadequate history and then did not order a CT scan to follow-up on the suspected perforation. Review of the records shows that the physician recognized from the patient's history that she might have a difficult time with the procedure and hence he used a pediatric colonoscope and did provide the usual

procedural sedation. Early in the procedure the patient experienced pain and the physician suspected a problem and immediately terminated the procedure. The patient was placed in an observation status and a surgeon was contacted who felt a CT scan was not needed and immediately brought the patient to the operating room for repair of the perforation.

Colonic perforation is a well recognized complication of colonoscopy and in this case was immediately recognized and treated. The procedure was curtailed because of the complication and the resulting care was completely appropriate. The physician remained involved with and supportive of the patient and was apologetic to her about the complication and her resulting distress.

49. CR 10-326

Ms. Holmes moved to dismiss CR 10-326 and refer the case to DHHS Hospital Licensing. Dr. Hatfield seconded the motion, which passed unanimously.

The complainant alleges that the physician lied to him during his admission to the hospital. Specifically, the complainant alleges that the physician lied about the availability of a medical specialist at the hospital. The physician responded by indicating that he had limited contact with the patient, and was asked to speak with the patient who was leaving against medical advice. The physician denied lying to the patient, and explained the miscommunication that occurred regarding the availability of the medical specialist. There is a concern that the systems in the hospital did not provide timely medical services; therefore, this will be referred to DHHS.

50. CR 10-335

Dr. Jones moved to dismiss CR 10-335. Dr. Dumont seconded the motion, which passed unanimously.

It is always uncomfortable when patients and their providers disagree on a diagnosis or a treatment plan for an illness. Although the second visit in this complaint became somewhat adversarial by history, what was actually said and how it was said is speculative. The eventual outcome, which included refunding the office visit charges, and a referral to another provider, was acceptable. This plan offered continued medical care for the patient in a situation where the physician-patient relationship had failed. The eventual diagnosis and treatment of the patient supported the original provider's diagnosis and treatment plan.

IV. ASSESSMENT & DIRECTION

51. AD 10-227 (CR 10-448)

Dr. Dumont moved to issue a complaint in the matter of AD 10-227. Dr. Dreher seconded the motion, which passed unanimously.

52. AD 10-229 (CR 10-449)

Dr. Dreher moved to issue a complaint in the matter of AD 10-229. Dr. Gleaton seconded the motion, which passed unanimously.

53. AD 10-309 (CR 10-450)

Dr. Gleaton moved to issue a complaint in the matter of AD 10-309. Dr. Dumont seconded the motion, which passed unanimously.

54. AD 10-310 (CR 10-451)

Dr. Jones moved to issue a complaint in the matter of AD 10-310. Dr. Gleaton seconded the motion, which passed unanimously.

55. AD 10-323

Dr. Gleaton moved to investigate further AD 10-323. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

56. AD 10-331

Dr. Dreher moved to file AD 10-331. Dr. Nyberg seconded the motion, which passed unanimously.

57. AD 10-332

Dr. Gleaton moved to file AD 10-332. Ms. Clukey seconded the motion, which passed unanimously.

58. AD 10-333 (CR 10-452)

Dr. Nyberg moved to issue a complaint in the matter of AD 10-333. Dr. Dumont seconded the motion, which passed unanimously.

59. AD 10-334

Dr. Dreher moved to table AD 10-334 with instructions to staff. Dr. Jones seconded the motion, which passed unanimously.

60. AD 10-344 (CR 10-453)

Dr. Gleaton moved to issue a complaint in the matter of AD 10-344. Dr. Hatfield seconded the motion, which passed unanimously.

61. AD 10-348

Dr. Hatfield moved to file AD 10-348. Dr. Jones seconded the motion, which passed unanimously.

62. AD 10-353 (CR 10-454)

Dr. Hatfield moved to issue a complaint in the matter of AD 10-353. Dr. Gleaton seconded the motion, which passed unanimously.

63. AD 10-363

Dr. Dreher moved to file AD 10-363. Dr. Jones seconded the motion, which passed unanimously.

64. AD 10-403

Dr. Gleaton moved to investigate further AD 10-403. Dr. Hatfield seconded the motion, which passed unanimously.

V. INFORMAL CONFERENCE(S)

A. CR 09-361 STEVEN J. ARNOLD, M.D.

Dr. Hatfield moved to dismiss, with a letter of guidance, CR 09-361 Steven J. Arnold, M.D. Dr. Dreher seconded the motion, which passed unanimously.

This case involves Dr. Arnold's prescribing of narcotics as well as other issues including history and documentation in the chart. The Board feels that the physician is unable to prescribe narcotics appropriately except for short periods of time for the treatment of acute pain. For this reason Dr. Arnold has agreed to take several steps as outlined in his notes to the Board. The Board would also like to emphasize the need for proper documentation of his examinations as well as documentation of tracking and complications dealing with his pain patients. The Board expects that under no circumstances will it see patterns of prescribing narcotics for more than one month.

B. CR 09-468 JOHN A. BOOTHBY, M.D.

Dr. Jones moved to dismiss, with a letter of guidance, CR 09-468 John A. Boothby, M.D. Dr. Dreher seconded the motion, which passed unanimously.

We, as physicians, have tremendous power, and with that comes responsibility in our interactions with patients. Dr. Boothby has used this power to overwhelm a patient in conversation in the office, to demean her, and also to treat her social worker in an unprofessional manner.

The art of medicine encompasses the ability to have empathy, to treat the patient and those with the patient with respect, and never to abuse the power of the physician role.

The Board expects future encounters between Dr. Boothby and his patients to reflect those skills he learned at the Guthrie Clinic and through the experience he has had with the Board's complaint process this year.

The Board encourages Dr. Boothby always to treat patients, patients' families, patients' support staff, or his own staff with respect, to empathize with his patients, and to act at all times in a professional manner.

12:00 – 1:00 p.m. Retirement Luncheon for Public Member Bettsanne Holmes, honoring her for 12 years of service.

INFORMAL CONFERENCE

C. CR 08-256

Dr. Dreher moved to continue the Informal Conference. Dr. Jones seconded the motion, which passed unanimously.

PUBLIC SESSION

Ms. Clukey was excused.

VI. MINUTES OF JULY 13, 2010

Dr. Gleaton moved to approve the minutes of July 13, 2010. Dr. Jones seconded the motion, which passed 7-0-1 with Dr. Dreher abstaining.

VII. NEW BUSINESS (NONE)

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING AND APPROVAL

A. BOARD ORDERS

1. CR 08-315 ELLEN E. MICHALOWSKI, M.D. [See Attached Appendix A]

Dr. Dumont moved to approve the Decision and Order in the matter of CR 08-315 Ellen E. Michalowski, M.D. Dr. Gleaton seconded the motion, which passed 5-0.

B. CONSENT AGREEMENT MONITORING AND APPROVAL

1. ANDREW J. FLETCHER, M.D.

The Board received a letter from the Medical Professionals Health Program (MPHP) on July 28, 2010, indicating that Dr. Fletcher has been out of compliance with his contract. The letter stated Dr. Fletcher is chronically remiss at submitting reports, but has signed an updated contract and promises to be more compliant.

In addition, Board staff learned that Dr. Fletcher had been working per diem at Redington Fairview. Dr. Fletcher did not inform Board staff of this until July 28, 2020, and did not submit the name of a physician monitor as required by the consent agreement.

Dr. Fletcher's counselor has asked that the Board accept a form each month instead of a written report. Also Dr. Fletcher is proposing John Comis, D.O. as his monitoring physician.

Dr. Fletcher was present at the meeting.

Dr. Dreher moved to approve John Comis, D.O. as Dr. Fletcher's monitoring physician. Dr. Gleaton seconded the motion, which passed 5-0-0-2 with Dr. Dumont and Dr. Jones recused.

2. GEORGE BUTLERS, M.D. [SEE APPENDIX B ATTACHED]

The Licensure Committee moves to approve a consent agreement providing a conditioned license for George Butlers, M.D. The motion passed 8-0.

3. CR 10-036 PAUL M. TESSIER, M.D. [SEE APPENDIX C ATTACHED]

Dr. Dreher moved to approve a consent agreement in the matter of Paul M. Tessier, M.D. for a conditioned license and resolution of CR 10-036. Dr. Dumont seconded the motion, which passed 8-0.

4. CR 09-220 LINDA KENISTON-DUBOCQ, M.D.

Dr. Gleaton moved to accept Rosalind Waldron, M.D. as Dr. Linda Keniston-Dubocq's primary care physician. Dr. Hatfield seconded the motion, which passed 8-0.

5. CLIFORD SINGER, M.D. [SEE APPENDIX D ATTACHED]

Dr. Nyberg moved to ratify the consent agreement in the matter of Clifford Singer, M.D. Dr. Jones seconded the motion, which passed 8-0.

IX. ADJUDICATORY HEARING (NONE)

X. REMARKS OF CHAIRMAN (NONE)

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the report of the Executive Director.

A. COMPLAINT STATUT REPORT (FYI)

B. POLICY REVIEW

1. POLICIES RETIRED FOR APPROVAL

Dr. Dreher moved to accept the list of policies which have been retired. Dr. Jones seconded the motion, which passed 8-0.

2. PROPOSED POLICY PA SCHEDULE PRESCRIBERS
TO BE PROVIDED TO THE PUBLIC

Dr. Jones moved to approve the policy stating PA Schedule II Prescribers may be made public. Dr. Dreher seconded the motion, which passed 8-0.

3. PROPOSED POLICY REVISION PRESCRIPTIVE AUTHORITY
FOR PHYSICIAN ASSISTANTS

Dr. Gleaton moved to approve the revision to the Physician Assistant Prescriptive Authority. Dr. Jones seconded the motion, which passed 8-0.

C. ELECTRONIC SIGNATURES (FYI)

XII. MEDICAL DIRECTOR'S REPORT

A. REQUEST FOR CASE REVIEWERS (FYI)

B. JAMA ABSTRACT EDITORIAL (FYI)

C. KENNEBEC JOURNAL EDITORIAL 08/02/2010 (FYI)

XIII. REMARKS OF ASSISTANT ATTORNEY GENERAL (NONE)

XIV SECRETARY'S REPORT

A. LIST A

1. M.D. LIST A LICENSES FOR RATIFICATION

Dr. Gleaton moved to ratify the Board Secretary's approval of the physician on List A. for licensure. Dr. Dumont seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary Gary R. Hatfield, M.D. without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Akrivakis, Spyridon T.	Cardiovascular Disease	Bangor

Andrews, Gretchen M.	Family Medicine	Central or Southern Maine
Ateshim, Yonas	Internal Medicine	Caribou
Bennett, Justin B.	Emergency Medicine	Southern Maine
Bonham, Shulamith C.	Internal Medicine	Portland
Choi, Michael Y.	Gastroenterology/Internal Med	Brunswick
Chong, Kok L.	Interventional Radiology	Machias
Chu, Deborah H.	Emergency Medicine	Ellsworth
De Oliveira, Luiz Ontavio P.	Internal Medicine	Bangor
Fleishman, Martin J.	Surgery	Bridgton
Foianini, Anthony	Not Listed	Portland
Floyd, Lisa A.	General Surgery	Bangor
Ghosh, Somnath B.	Internal Medicine	Waterville
Gruss, William S.	Internal Medicine/Cardiology	Not Listed
Harpell, Gabrielle Lee	Pediatrics	Undecided
Helveston, Wendell R.	Neurology	Remote Telemedicine
MacNeal, Robert J.	Dermatology/Internal Medicine	Portland
Mand, Raminder P.	Internal Medicine/Nephrology	Caribou
Maddali, Sirish	Plastic Surgery	Portland/South Portland
McAllister, Mark E.	Family Medicine	Waterville/Augusta
McNamara, Gregory M.	Anesthesiology	Not Listed
Menendez, Jorge L.	Plastic Surgery	Blue Hill/Ellsworth/Bangor
Parker, John B.	Forensic Pathology	Not Listed
Sandoval, Alexius Enrique G.	Physical Medicine & Rehabilitation/ Multiple Sclerosis	Bangor
Sattar, Beena	Internal Medicine	Presque Isle
Shetty, Sanjay	Emergency Medicine	Portland
Toivanen, Kathleen M.*	Obstetrics/Gynecology	Portland
Vasishtha, Neeraj	Internal Medicine/Pulmonary Disability/Critical Care	Lewiston

*Previously licensed in Maine.

2. P.A. LIST A LICENSES FOR RATIFICATION

Dr. Dumont moved to ratify the Board Secretary's approval of the physician assistants on List A. for licensure. Dr. Jones seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by the Board Secretary Gary R. Hatfield, M.D. without reservation:

NAME	LICENSE	PSP	LOCATION
Ancic, Anita	Active	John Southall, M.D.	Portland
Bisson, Nathan	Active	William Sturrock, M.D.	Brewer
Case, Michael	Active	David Bachman, M.D.	Lewiston
Chisholm, Todd	Active	Simona Suchan, M.D.	Fort Kent
Costanza, Claire	Active	David Carmack, M.D.	Bangor

Doyon, Danielle	Active	Thomas Hayward, M.D.	Hampden
*Gray, Julie	Active	Jeffrey Maher, M.D.	Brunswick
Green, Kristen	Active	Minda J. Gold, M.D.	Damariscotta
Hall, Kristin	Active	David Burke, M.D.	Bangor
Hallett, Jennifer	Active	Brad Cushing, M.D.	Portland
Lawler, Heather	Active	James Mullen, M.D.	Brunswick
Marquardt, Kimberly	Inactive	NONE	NONE
Melchinda, Lara	Active	Jeffrey Thurlow, M.D.	York
Preneta, Gretchen	Active	Konrad Barth, M.D.	Scarborough
Shalomova, Elina	Active	Michael Sullivan, M.D.	Fort Kent

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. GEORGE H. BUTLERS, M.D. (See Consent Agreements)

At the April 13, 2010 meeting, the Board moved that if the Dr. Butlers has reasonable SPEX exam results and accepts a conditional license mandating close supervision by a board certified primary care physician when providing care, the Board will provide a license. A consent agreement has been presented for approval.

2. JAMES T. CHEVERIE, M.D. – (Sent back to committee.)

3. ANN LANDSMAN PA-C

The Licensure Committee moved to deny the application of Ann Landsman, PA-C, with leave to withdraw her application. The motion passed unanimously.

4. VENKATRAM NETHALA, M.D.

The Licensure Committee moved to license Venkatram Nethala, M.D. with a consent agreement. The motion passed unanimously.

5. NED I. SHULMAN, M.D.

The Licensure Committee moved to approve the application of Ned I. Shulman, M.D. The motion passed unanimously.

6. JOHN T. WHITNEY, M.D.

The Licensure Committee moved to deny the application of John T. Whitney, M.D., with leave to withdraw his application. The motion passed unanimously.

7. CLIFFORD SINGER, M.D. (See Consent Agreements)

8. JULIE G. WHITE, M.D.

The Licensure Committee moved to approve the application of Julie G. White, M.D. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT (NONE)

D. LIST D WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (NONE)
2. LIST D (2) WITHDRAW LICENSE(S) FROM REGISTRATION

Dr. Gleaton moved to approve the physicians and physician assistants on List D who have applied to withdraw their licenses from registration. Dr. Nyberg seconded the motion, which passed unanimously.

The following physicians and physician assistants have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Al-Masri, Osama	008098
Bansal, Ankush	018320
Bennert, Harry	005881
Collins-Gibbard, Roslinde	015629
Denny-Brown, Bruce	007846
Evans, Peter	006106
Fix, Megan	017482
Frenette, James	013478
Gannon, David	015496
Lee, Tat-sum	008165
Lin, Sabrina	017767
Malmstadt, Larissa	017552
Metzler, Eric	012897
Pfizenmaier, David	016569
Pratt, Loring	004305
Ramiah, Ramesh	018147
Slayter, Ian	015114
Tanton, Thomas	015846
Williams, Richard	012957

3. LIST D (3) WITHDRAW LICENSE FROM REGISTRATION – INDIVIDUAL CONSIDERATION (NONE)

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW (FYI)

The following physician licenses lapsed by operation of law effective July 27, 2010

<u>NAME</u>	<u>LICENSE NO.</u>
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Creed, Abell	017654
Baradi, Hani B.	016429
Callow, Allan D.	004405
Cherepnina, Natalia Y.	017180
Daly, John S. F.	017940
Ferenc, Michael J.	014892
Goodman, Dennis B.	013460
Hossain, Shabbir M.	018250
Lee, John F.	017895
Moulton, Gardner N.	004785
Pennoyer, Douglass	005105
Raza, Agha	015936
Schlauder, Scott M.	018162
Stotsky, Bernard	014736
Williams, Carl	016380

F. LIST F LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS

1. SUBHASH VYAS, M.D.

The Licensure Committee moved to deny the request of Subhash Vyas, M.D. to convert his inactive license to active. The motion passed unanimously.

2. CR 10-036 PAUL M. TESSIER, M.D. (See Consent Agreements)

G. LIST G – RENEWAL APPLICATIONS FOR REVIEW

1. VINCENT CALLANAN, M.D. (No action taken)

2. MICHAEL FESTINO, M.D.

Dr. Gleaton moved to table the renewal of Michael Festino, M.D. pending the outcome of an Adjudicatory Hearing. Dr. Dreher seconded the motion, which passed unanimously.

3. GEORGE D. GRIFFIN, M.D.

Dr. Dreher moved to rescind the previous denial for active license and renewal and approve licensure in active status. Dr. Gleaton seconded the motion, which passed unanimously.

4. CORNELIUS SULLIVAN, M.D.

The Licensure Committee moved to renew the license of Cornelius Sullivan, M.D. The motion passed 5-3.

H. LIST H – PHYSICIAN ASSISTANT SCHEDULE II AUTHORITY

REQUESTS FOR RATIFICATION

1. REQUESTS TO RENEW SCHEDULE II AUTHORITY (NONE)
2. NEW SCHEDULE II REQUESTS

Dr. Jones moved to ratify the Physician Assistants on List H(1) to renew their schedule II privileges. Dr. Gleaton seconded the motion, which passed unanimously.

The following requests for Schedule II prescribing authority have been approved by Board Secretary Gary R. Hatfield, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Todd Chisholm, PA-C	Simona Suchan, M.D.	Fort Kent
Elizabeth Connelly, PA-C	David Loxterkamp, M.D.	Belfast
Aaron Copeland, PA-C	Jeffrey Bush, M.D.	Auburn
Paul Daiute, PA-C	Bruce Gomberg, M.D.	Augusta
Sarah Dooley, PA-C	John Garofalo, M.D.	North Anson
David Pellin, PA-C	Lisa Nielsen, M.D.	Patten
Elina Shalomova, PA-C	Michael Sullivan, M.D.	Fort Kent
Ryan Zimmerman, PA-C	Brad Waddell, M.D.	Bangor

XV. STANDING COMMITTEE REPORTS

- A. ADMINISTRATION, POLICY & RULES COMMITTEE (NONE)
- B. JOINT CONFERENCE COMMITTEE MEDICINE/NURSING

1. JOINT MEMORANDUMS OF UNDERSTANDING

Dr. Oldham reported the Joint Conference Committee met, and due to the legislative action regarding Sec. 1.3. 32 MRSA §2205-B, sub-§3, which repealed a provision in the laws governing registered nurses relating to delegated medical procedures that are already within the scope of practice of certain advanced practice registered nurses, the committee recommends rescinding both the Joint Opinion Assurance of Appropriate Discipline, and the Joint Opinion Nurse Practitioner Schedule II Prescribing Scenarios.

Dr. Jones moved to rescind both the Joint Opinion Assurance of Appropriate Discipline, and the Joint Opinion Nurse Practitioner Schedule II Prescribing Scenarios. Dr. Nyberg seconded the motion, which passed unanimously.

2. CONCERNS IN COMMON ABOUT MEDICAL CARE IN THE CORRECTIONAL SYSTEM.

Both the Nursing Board and the Medical Board have concerns about the number of complaints from patients at the prison being markedly up, the lack of

cooperation on the part of the Correctional Medical System (CMS) and the lack of oversight over CMS.

C. PUBLIC INFORMATION COMMITTEE

The newsletter will be out soon.

D. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

Dr. Jones reported the PA Committee thanked the Board for agreeing to change the application that allows blanket prescribing by category which was approved at the May meeting.

The PA Committee is forming a sub-committee to look closely at the Chapter 2 rules and make recommendations for changes.

XVI. FYI - F. JAMES WHALEN, M.D. (response to physician survey)

XVII. OTHER BUSINESS

A. MAINE MEDICAL ASSOCIATION

1. MMA'S PROPOSAL TO RENEW CHRONIC PAIN CONTRACT

Gordon Smith proposed that the Board renew its contract with MMA "Managing Chronic Pain While Avoiding Prescription Diversion."

Dr. Jones moved to renew the "Managing Chronic Pain While Avoiding Prescription Diversion" contract with Maine Medical Association. Dr. Dreher seconded the motion, which passed unanimously.

2. MPHP RECOVERY MAINTENANCE CONTRACT

Lani Graham, M.D., MPH, Medical Director, Maine Professionals Health Program, was present to speak about her role as Medical Director. Dr. Graham has been working to develop new policies and protocols.

Margaret Palmer, Ph.D., Clinical Director, Maine Professionals Health Program, introduced the a new short term contract which participants enter into as soon as they make contact with MPHP and places them under contract before they are sent out for treatment. She also presented an overview of the new MPHP Recovery Maintenance Contract and the MPHP Evaluation and Treatment Agreement.

XVIII. ADJOURNMENT 5:33 p.m.

Ms. Holmes moved to adjourn. Dr. Hatfield seconded the motion, which passed unanimously.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jean M. Greenwood".

Jean M. Greenwood, Administrative Assistant
Board Coordinator
Maine Board of Licensure in Medicine

MAINE STATE BOARD OF LICENSURE IN MEDICINE

IN RE: Ellen E. Michalowski, M.D.)
 Licensure Disciplinary Action) **DECISION AND ORDER**
 Complaint CR-08-315)

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. Sec. 3282-A, *et seq.*, 5 M.R.S. Sec. 9051, *et seq.* and 10 M.R.S. Sec. 8001, *et seq.*, the Board of Licensure in Medicine (Board) met in public session at the Board's offices located in Augusta, Maine at 1:00 p.m. on April 13, 2010 and July 13, 2010. The purpose of the meeting was to conduct an adjudicatory hearing to decide whether Ellen E. Michalowski, M.D. violated Board statutes and Rules as alleged in the Notice of Hearing. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members attending both sessions were Chairman Pro Tem Gary R. Hatfield, M.D., Bettianne Holmes, (public member), David Nyberg, Ph. D., (public member), Maroulla S. Gleaton, M.D., and David H. Dumont, M.D. George Dreher, M.D. and Cheryl Clukey, public member, attended only the first session and did not deliberate or vote in this matter. Dennis Smith, Ass't. Attorney General, presented the State's case. James E. Smith, Esq. served as Presiding Officer.

Dr. Michalowski appeared at the first session and was represented by Eric Mehnert, Esq. Dr. Michalowski chose not to appear at the second session but her closing argument was read by the Board members. Mr. Mehnert briefly appeared by telephone at the second session to argue some outstanding motions similar to those denied by the Federal District Court,¹ and one additional motion concerning lack of jurisdiction for the Board to hear this matter. The motions were denied by the presiding officer for the reasons expressed on the record.

¹ On July 7, 2010, Dr. Michalowski filed a complaint in the United States District Court of Maine requesting a Temporary Restraining Order (TRO) to enjoin the Board from proceeding with the adjudicatory hearing. In brief, the complaint alleged bias based on the AAG assuming the role of prosecutor in this case and generally providing legal counsel to the Board although the presiding officer assumed that role during these proceedings. Comments made by Board members were also alleged to have created a bias against the respondent. The Court denied the TRO based on the doctrine of abstention as articulated in *Younger v. Harris*, 401 U.S. 37 (1971). The District Court, in related language, stated that "In sum, Dr. Michalowski's evidence of bias has not nearly risen to the level of bias that would justify exception to the *Younger* abstention doctrine."

The Board convened the hearing and first determined that there were no conflicts of interest or bias on behalf of any Board member. The Board then took administrative notice of its statutes and Rules. State's exhibits 1-56 and Respondent's exhibits 1-18 were admitted into the Record. Subsequent to the parties' opening statements, the taking of testimony, exhibits, and closing arguments, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence.

II. FINDINGS OF FACT

1. Ellen Michalowski, 52 years of age, is a resident of Presque Isle, Maine.
2. Dr. Michalowski is a Board Certified specialist in Obstetrics and Gynecology and was first licensed as a physician in Arizona in 1985 and subsequently in Maine in 1996.
3. Dr. Michalowski, in her July 7, 2009 response to the Board's correspondence, wrote that she had sustained a left knee injury in the past while skiing. The injury eventually produced considerable pain which ultimately resulted in a total replacement of that knee in December 2005.
4. Following the knee surgery, Dr. Michalowski had nine follow-up visits with her surgeon to address her complaints of continuing knee pain.
5. In July 2006, Dr. Michalowski was prescribed Kadian, a long-acting opiate for her pain.
6. In October 2006, Dr. Michalowski entered into a drug monitoring contract with the Maine Medical Association's Medical Professionals Health Program (MPHP).
7. In November 2006, she transferred her care to another surgeon who discovered a significant loosening of the knee implant and performed a revision of the surgery at which time a staph infection was noted in the area of the original replacement. Dr. Michalowski continued to receive prescription medications.
8. On April 10, 2007, Dr. Michalowski entered into a Consent Agreement with the Board that imposed discipline upon her Maine medical license. The day prior thereto she had prescribed Percocet or Endocet (opiates) for "TJ" to be filled at a Presque Isle pharmacy.²
9. The basis for the 2007 Consent Agreement was that Dr. Michalowski had been obtaining narcotic prescriptions over a two-year period from multiple different healthcare providers,

² Dr. Michalowski pled the 5th Amendment when asked whether her signature appeared on a number of prescriptions.

including obtaining narcotics and other prescription medications on the same or the next day and/or prior to the anticipated refill date.

10. In the 2007 Consent Agreement, licensee Michalowski admitted that the Board had sufficient evidence from which it could reasonably conclude that she: (a) inappropriately obtained narcotic pain medication from multiple medical providers, including physicians with whom she worked or were in practice and a nurse practitioner whom she supervised; and (b) she attempted to inappropriately obtain prescription medication from a medical provider with whom she did not have a provider/patient relationship. She also admitted that such conduct amounted to unprofessional conduct.

11. In the 2007 Consent Agreement, Dr. Michalowski agreed to the following:

a. Paragraph 13(a)(ii) – “only obtain her prescription medication(s) from a single primary care physician approved by the Board.”

b. Paragraph 13(a)(iii) – “only obtain her prescription medications from a single pharmacy designated by her primary care physician.”

c. Paragraph 13(b) – a five year license probation with conditions.

d. Paragraph 13(b)(i)(a) – “shall establish and maintain a patient relationship with a single primary care physician approved by the Board....[who] is outside of Dr. Michalowski’s own medical practice, and will provide all of Dr. Michalowski’s primary medical care, prescriptions, and pain medications, and appropriate referral and coordination of specialty medical care.”

e. Paragraph 13(b)(i)(b) – “shall establish and maintain a patient relationship with a single primary care physician approved by the Board...[who] is the sole prescriber of Dr. Michalowski’s narcotic pain medication(s) and any other prescription medication(s).”

f. Paragraph 13(b)(ix) – “agrees and understands that her use and/or filling of prescription medications will be monitored during the period of probation, and shall cooperate with the Board by whatever means necessary to effectuate this process.”

g. Paragraph 13(b)(x) – “abstain from the use or ingestion of alcohol or prescription medications that are not specifically prescribed to her by her sole primary care physician or covering physician approved by the Board.”

h. Paragraph 13(b)(xi) – “shall fully participate in the Maine Physician Health Program, and meet all of the conditions and requirements of that program.”

i. Paragraph 16 – “failure to comply with any of the terms or conditions of this Consent Agreement or of her probation shall constitute grounds for additional disciplinary action against her Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking her license.”

12. From July 2007 until July 2008, the licensee was employed as a physician at Northern Maine Medical Center (NMMC) in Fort Kent, Maine.

13. From October 15 until October 19, 2007, Dr. Michalowski underwent a drug addiction evaluation at the Talbot Recovery Center (Talbot) in Atlanta, Georgia.

14. Dr. Michalowski was untruthful when she reported at Talbot that she had never self-prescribed medications or wrote medications for herself.

15. On July 24-25, 2008, the Board staff received information from NMMC that Dr. Michalowski had been crossing the United States border into Canada in order to obtain narcotic medications from Canadian pharmacies. According to Peter Sirois, Associate Director at NMMC, Dr. Michalowski had obtained six thousand pills from multiple pharmacies in Canada. Mr. Sirois confronted the licensee and she denied the accusation until Mr. Sirois presented her with the documentation he obtained from the Canadian pharmacies. After being confronted with the documentation, Dr. Michalowski appeared to Mr. Sirois and another witness to admit having obtained the prescription medication from the Canadian pharmacies. The licensee denied at the hearing that she had admitted this but that denial is not found to be credible.

16. On July 30, 2008, the Board received a letter from the Maine Medical Association’s Medical Professionals Health Program. According to that letter, Dr. Michalowski had obtained opiate analgesics from a Canadian pharmacy without knowledge of the MPHP or her primary care physician which is a violation of the Consent Agreement and the MPHP contract.

17. On July 31, 2008, the Board staff received documentation from Northern Maine Medical Center that indicated Dr. Michalowski had issued prescriptions (telephone and/or in writing) in the name and date of birth of “TJ” for narcotic/opioid medications to the following Canadian pharmacies on the following dates:

a. Shoppers Drug Mart, Edmundston, New Brunswick

07/17/07	01/28/08	05/01/08
11/14/07	02/14/08	05/13/08

11/27/07	02/25/08	05/23/08
12/05/08	03/06/08	06/04/08
12/18/08	03/20/08	06/12/08

b. Shoppers Drug Mart, Edmundston, New Brunswick con't

12/26/08	04/03/08	06/18/08
01/18/08	04/17/08	07/17/08

c. Pharmacie Eric Lee, Clair, New Brunswick

12/27/07	03/21/08	05/29/08
01/03/08	03/27/08	06/06/08
01/10/08	04/07/08	06/13/08
01/23/08	04/15/08	06/20/08
02/06/08	04/23/08	07/11/08
02/25/08	05/07/08	07/19/08
03/04/08	05/20/08	

d. The DrugStore Pharmacy, Grand Falls, New Brunswick

01/21/08	05/12/08	07/03/08
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e. The DrugStore Pharmacy, Edmundston, New Brunswick

02/29/08	05/02/08
03/07/08	05/15/08
03/25/08	05/22/08
04/04/08	06/10/08
04/15/08	06/20/08
04/24/08	07/16/08

f. Wal-Mart Pharmacy, Grand Falls, New Brunswick

04/08/08

06/16/08

07/07/08

g. Wal-Mart Pharmacy, Edmundston, New Brunswick

12/04/07

04/10/08

12/13/07

04/26/08

12/28/07

05/09/08

01/15/08

05/21/08

02/01/08

05/30/08

03/01/08

06/11/08

03/28/08

06/26/08

h. Pharmacie Jean Coutu, Edmundston, New Brunswick

06/05/08

07/09/08

06/17/08

06/24/08

18. According to the Canadian pharmacy records, between July 2007 and July 2008, Dr. Michalowski issued prescriptions for 6,685 tablets of narcotic/opiate medication in the name and date of birth of "TJ."

19. On August 4, 2008, the Board issued subpoenas to Dr. Michalowski and NMMC to produce any and all records relating to "TJ." NMMC advised the Board staff that it did not have any medical records regarding patient "TJ."

20. On or about August 14, 2008, Board staff received information that Dr. Michalowski had been prescribing narcotic/opioid medication to "TJ" at the following United States pharmacies:

- a. City Drug Store in Presque Isle, Maine
- b. Rite Aid Pharmacy in Presque Isle, Maine
- c. Wal-Mart Pharmacy in Presque Isle, Maine

21. According to that information, Dr. Michalowski had prescribed 1070 tablets of narcotic/opioid medication under the name and date of birth of "TJ."

22. On September 4, 2008, the federal DEA received a written statement from "TJ." According to that written statement:

- a. Dr. Michalowski had been her friend and neighbor for 11 years, and that Dr. Michalowski offered to write her prescriptions for her health issues.
- b. All of the prescriptions that "TJ" ever received from Dr. Michalowski were filled at three pharmacies located in Presque Isle, Maine.
- c. At no time did "TJ" ever fill any prescriptions outside of the United States.
- d. Dr. Michalowski called "TJ" in July 2008 and advised that she had been caught presenting a prescription in "TJ"'s name at a Canadian pharmacy.

23. On September 9, 2008, the Board and Dr. Michalowski entered into another Consent Agreement whereby she agreed to temporarily suspend her medical practice until final Board resolution of the pending issues. On September 16, 2008, the Board initiated a complaint against Dr. Michalowski's Maine medical license.

24. On June 17, 2009, the licensee surrendered her federal DEA registration. In a letter dated June 12, 2009, to the federal DEA, Dr. Michalowski stated that she was "presently disabled, and unable to work in the near future, so there is no sense in defending myself at this point."

25. On July 7, 2009, the Board received a written response from Dr. Michalowski to the complaint which had been filed 10 months previous. In her written response, she admitted that she was addicted to narcotic/opiate medication. According to her response, she "restarted Percocet" because she was "miserable" and her primary care physician was gone on vacation. According to her response, "The next week, I was confronted by members of the NMMC staff and administration concerning my opiate usage. They placed me on medical leave..." At no point in her written response did Dr. Michalowski deny the allegations of the Board's complaint that she had been obtaining narcotic/opiate medication for her own personal use from multiple Canadian pharmacies in the name of "TJ."

26. The State, a few days prior to the first session on April 13, 2010, subpoenaed any medical records from Dr. Michalowski regarding her prescribing of narcotic/opioid medication to "TJ."

As of April 13, 2010, the date of the first session of this hearing, the Board had not received those records.

27. At this hearing, Dr. Michalowski testified that she had provided some after-hours medical care to "TJ" at the hospital and that the hospital's manager had given her permission to do so and to keep the created records private.

28. Dr. Michalowski further testified that "TJ" had instructed her not to disseminate the records under any circumstances due to extremely significant personal information that she had shared with the doctor.

29. Dr. Michalowski additionally testified that members of her family had cleaned out her office at NMMC and brought the cabinet containing the alleged records to her home. The licensee then testified that she destroyed the records of "TJ" and those of another "private" patient.

30. Dr. Michalowski's testimony regarding records and treatment of "TJ" is incredible in at least two regards. First, "TJ's" credible testimony established that she was never given a physical by Dr. Michalowski, was totally unaware of any records produced by that physician, and further that she did not share any significant personal information with Dr. Michalowski that she feared would be divulged to others. In fact, Dr. Michalowski was prescribing medication to ease "TJ's" migraine headaches. The most persuasive evidence is that Dr. Michalowski did not author any treatment records for "TJ."

31. Second, the hospital's managers testified that they had not and would not have given permission to Dr. Michalowski to treat her private patients or create private charts for them at the hospital. Dr. Michalowski's office was cleaned out by the hospital's practice manager and Peter Sirois, Chief Operating Officer at NMMC. No records of "TJ" were located during a very thorough search, thereby effectively refuting the licensee's testimony that her family had brought her a cabinet containing "TJ's" records.

III.

CONCLUSIONS OF LAW

The Board, based on the above evidence and other evidence found in the record but not alluded to herein, and further on observations of the licensee's demeanor, concluded by the vote of 5-0, that Ellen Michalowski, M.D. violated the following Board Rules and statutes.

1. 32 M.R.S. § 3282-A(2)(A): by engaging in the practice of fraud or deceit in connection with service rendered within the scope of her Maine medical license by:

A. Between on or about July 2007 and July 2008, on multiple occasions, issuing (telephoning, faxing, or writing) prescriptions for narcotic medication to seven different Canadian pharmacies in the name and date of birth of "TJ," going into Canada, picking up the medication, and bringing it back into the United States for her own personal use. She was able to accomplish this using her "border area" license issued by the Province of New Brunswick only because she held a valid Maine medical license.

B. Between on or about July 2007 and July 2008, on multiple occasions, obtaining narcotic medication from Canadian pharmacies by fraud or deceit, to wit:

- a. By telephoning/faxing illegitimate prescriptions for narcotic medications to Canadian pharmacies;
- b. By personally picking up the illegitimate prescriptions for narcotic medications;
- c. By misrepresenting to the Canadian pharmacies that Dr. Michalowski was patient "TJ" or was acting on behalf of "TJ."

2. 32 M.R.S. § 3282-A(2)(F): by engaging in unprofessional conduct by violating a standard of professional behavior that has been established in the practice of medicine in violation of by:

A. Between on or about July 2007 and July 2008, on multiple occasions, issuing (telephoning or writing) prescriptions for narcotic medication to seven different Canadian pharmacies in the name and date of birth of "TJ," and then going into Canada, picking up the medication, and bringing it back into the United States for Dr. Michalowski's own personal use.

B. Prescribing narcotic medication for "TJ" without having a legitimate doctor-patient relationship with "TJ."

C. Prescribing narcotic medication for "TJ" without conducting an evaluation of "TJ," including a pain history, assessment of impact of the pain, a directed physical examination, a review of previous diagnostic studies, a review of previous interventions, a drug history, and an assessment of coexisting diseases or conditions of "TJ" – all in contradiction of the "Principles of Proper Patient Management" of Board Rule, Chapter 11, Section 2(A).

D. Prescribing narcotic medication for "TJ" without creating a treatment plan in contradiction of the "Principles of Proper Patient Management" of Board Rule, Chapter 11, Section 2(B).

E. Prescribing narcotic medication for "TJ" without conducting a periodic review of

treatment efficacy, including the functional status of the patient, continued analgesia, controlled substances side effects - in contradiction of the "Principles of Proper Patient Management" of Board Rule, Chapter 11, Section 2(E).

F. Prescribing narcotic medication for "TJ" without creating a treatment plan in contradiction of the "Principles of Proper Patient Management" of Board Rule, Chapter 11, Section 2(B).

G. Prescribing narcotic medication for "TJ" without conducting a periodic review of treatment efficacy, including the functional status of the patient, continued analgesia, controlled substances side effects- in contradiction of the "Principles of Proper Patient Management" of Board Rule, Chapter 11, Section 2(E).

H. Prescribing narcotic medication for "TJ" without creating and maintaining a medical record or documentation of the evaluation, the reason for the controlled substances prescribing, the overall pain management treatment plan, any consultations received, periodic review of the status of the patient, drug treatment outcomes and rationale for changes, and all prescriptions - in contradiction of the "Principles of Proper Patient Management" of Board Rule, Chapter 11, Section 2(F).

3. 32 M.R.S. 3282-A(2)(E): incompetence by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public by:

See 2(A) – (H) above.

4. 32 M.R.S. § 3282-A(2)(B): by engaging in habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients.

See 1 and 2 (A)-(B) above. Moreover, Dr. Michalowski apparently traveled on occasion to Canada to illegally secure narcotics in the early morning and noontime hours before treating patients. Although there was no proof at this hearing of patient harm, it is more likely than not that such harm to the public is and was foreseeable and may have indeed occurred.

5. 32 M.R.S. § 3282-A(2)(H): by violating any rule adopted by the Board by:

See 2 (B)-(H) above.

6. The Consent Agreement of April 10, 2007 by: violating a condition of probation as imposed by the Consent Agreement which constitutes grounds for disciplinary action pursuant to 10 M.R.S. § 8003(5).

See 1(B), 2(A) above.

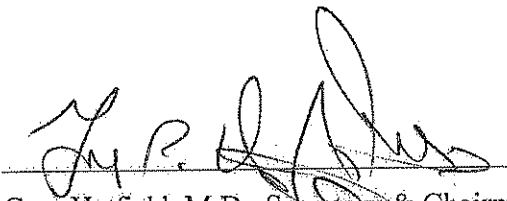
IV.

SANCTIONS

The Board voted 5-0 to order the following sanctions based on the egregiousness of the above violations. The Board was particularly disturbed that Dr. Michalowski on several occasions told falsehoods regarding her drug addiction and blatantly lied under oath during this hearing on April 13, 2010 regarding the compilation of and destruction of "TJ's" records. "The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and **honest practitioners** and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose." The Board found it clear that Dr. Michalowski was neither honest in her practice of medicine nor trustworthy.

Wherefore, the Board orders that Ellen Michalowski, M.D.'s license to practice medicine in the State of Maine is hereby **REVOKED**. Dr. Michalowski is further ordered to pay the costs of this hearing, not to exceed \$14,000, by September 14, 2011 or to show cause by that date why she is not financially able to comply with this order. Ellen Michalowski shall pay for any additional costs of transcribing the hearing testimony at her request or if she appeals. Payment of the costs shall be by check or money order **made payable to: "Maine Board of Licensure in Medicine"** and remitted to Randal C. Manning, Executive Director, 137 State House Station, Augusta, Maine 04333-0137. Costs are ordered consistent with past Board practices and because Board licensees who obey Board statutes and Rules should not be obligated to pay for the costs of those who don't.

Dated: September 14, 2010


Gary Hatfield, M.D., Secretary & Chairman Pro Tem
Maine Board of Licensure in Medicine

V.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S. Sec. 10051.3 and 10 M.R.S. Sec. 8003 (5)(G) and (5-A), any party that appeals this Decision and Order must file a Petition for Review in the District Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine State Board of Licensure in Medicine, all parties to the agency proceedings and the Attorney General.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT AGREEMENT
George H. Butlers, M.D.)	FOR CONDITIONAL LICENSURE

This document is a Consent Agreement for Conditional Licensure, effective when signed by all parties, that grants George H. Butlers, M.D. a conditional license to practice medicine in the State of Maine. The parties to the Consent Agreement are: George H. Butlers, M.D. ("Dr. Butlers"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Butlers held an active license to practice medicine in the State of Maine from July 10, 1984 to July 1, 1990. During that time, Dr. Butlers specialized in general surgery. On July 1, 1990, Dr. Butler's medical license lapsed because he chose not to renew it.

2. On June 29, 2009, the Board received an application for new licensure¹ from Dr. Butlers. On that application, Dr. Butlers disclosed that he had not been licensed to practice medicine or practiced medicine for nearly twenty years. In addition, however, Dr. Butlers provided information regarding his efforts to update his medical knowledge, including:

¹ Pursuant to Title 32 M.R.S.A. § 3280-A(4) ("Reinstatement after lapse") "a physician whose license has lapsed for more than 5 years shall apply for a new license in order to practice medicine in this State."

a. Successfully passing the Qualifying Examination Parts I and II of the Medical Council of Canada, thereby becoming registered in the Canadian Medical Register as a Licentiate (one requirement of licensure in Canada);

b. Completing the Medical License Bridging Program in Canada, including medical ethics and an Observership in the general medical practice of Dr. J. Abiscott; and

c. Receiving certification as an Advanced Cardiac Life Support provider from the Sunnybrook Medical Center, University of Toronto.

3. Pursuant to Title 32 M.R.S.A. § 3280-A(4), "the board may not reinstate a lapsed license... who has not provided evidence satisfactory to the board of having actively engaged in the practice of medicine continuously for at least the past twelve months under the license of another jurisdiction... unless the applicant has first satisfied the board of the applicant's current competency..."

4. Pursuant to Title 32 M.R.S.A. § 3271(5), an "applicant may not be licensed unless the Board finds that the applicant is qualified and no cause exists, as set forth in section 3282-A, that may be considered grounds for disciplinary action against a licensed physician or surgeon."

5. On December 11, 2009, the Board received correspondence from Dr. Butlers indicating that he would agree to work under the supervision of another licensed physician in a general practice.

6. On April 13, 2010, the Board reviewed Dr. Butlers' application for licensure (reinstatement). Following its review, the Board voted to grant Dr. Butler's a conditional Maine medical license if he had a reasonable score on the Special Purpose Examination (SPEX), an examination provided by the Post-Licensure Assessment System (PLAS).

7. On August 9, 2010, the Board received an e-mail from Dr. Butlers in which he agreed to accept a conditional medical license under the close supervision of a board certified primary care physician. In addition, Dr. Butlers indicated that he would be limiting his scope of his medical practice to primary care, and would not be performing surgery. The Board also received written confirmation from PLAS that Dr. Butlers scored a 90 on the SPEX.

8. Absent Dr. Butlers' acceptance of the terms and conditions of this Consent Agreement for Conditional Licensure by signing it and dating it, having it notarized, and returning it to Assistant Executive Director Dan Sprague, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, the Board shall not grant him a license to practice medicine in the State of Maine.

9. By signing this Consent Agreement, Dr. Butlers waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on September 14, 2010. Dr. Butler also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

10. Dr. Butlers agrees that the Board has sufficient evidence from which it could reasonably conclude that he has not actively practiced medicine for twenty years, and that, at present, his lack of active medical practice for such a long period of time constitutes grounds for modification or restriction his Maine medical license pursuant to 32 M.R.S.A. § 3282-A.

11. In light of Dr. Butlers' admission in paragraph 10 above, the Board agrees to issue, and Dr. Butlers agrees to accept, a conditional license to practice medicine in this State following the execution² of this Consent Agreement. Unless and until this Consent Agreement is modified or rescinded in writing by agreement of all of the parties, Dr. Butlers' Maine medical license shall be subject to the following conditions:

a. Dr. Butlers shall limit his practice of medicine to a closely supervised primary care medical practice location approved by the Board;

b. Dr. Butlers shall practice medicine only at the Board-approved location, and under the close supervision of a board-certified primary care physician approved by the Board, who is a signatory to this Consent Agreement;

c. Dr. Butlers shall ensure that the duties of his supervising/monitoring board-certified primary care physician shall

² For the purposes of this Consent Agreement, "execution" means the date on which the final signature is affixed to this Consent Agreement.

include: on-going, regular supervision; review of patient charts (including clinical scales performance, patients' responses to outcome, and satisfaction reviews); review of the efficacy of prescribed medications; and consultation with other health care providers involved in the patients' care. In complying with this requirement, Dr. Butlers shall permit his supervising physician full access to all patient information;

d. Dr. Butlers shall ensure that his Board-approved physician supervisor is aware of and ensures that Dr. Butlers complies with the following conditions:

- (i) Dr. Butlers shall not perform surgery;
- (ii) Dr. Butlers shall see a limited number of patients per day, which number shall be monitored and regulated by his supervising physician;
- (iii) Dr. Butlers and his supervising physician shall engage in a case discussion and record review on the same date on which the patient is seen by Dr. Butlers;
- (iv) Dr. Butlers shall ensure that his supervising physician develops and implements protocols for the medical practice that assist Dr. Butlers with clinical practice updates (*i.e.* recently developed medical tests) and potential drug interactions (*i.e.* pharmacological agents);
- (v) Dr. Butlers shall ensure that he regularly communicates with his supervising physician; and

(vi) Dr. Butlers shall ensure that his supervising physician provides the Board with quarterly reports concerning his compliance with the terms and conditions of this Consent Agreement, Dr. Butlers' practice of medicine, and progress towards eventual independent practice.

e. Dr. Butlers and his supervising physician shall permit the Board or its agent(s) to inspect his medical practice at random intervals as determined by the Board or its designee to ensure his compliance with the terms and conditions of this Consent Agreement. Such inspection shall include access to all areas and records of the medical practice;

f. Dr. Butlers' Board-approved supervising physician agrees to and understands his/her obligations under this Consent Agreement, and shall immediately report to the Board in writing:

(i) any violation by Dr. Butlers of any of the terms or conditions of this Consent Agreement; or

(ii) any change in status regarding his/her willingness to serve as Dr. Butlers' supervising physician; or

(iii) any concern regarding any aspect of Dr. Butlers' medical practice or abilities; or

(iv) any negative change in Dr. Butlers' employment status with the medical practice.

12. Dr. Butlers has not been represented by legal counsel in the negotiation of the terms of this Consent Agreement.

13. Violation of any of the terms or conditions of this Consent Agreement by Dr. Butlers shall constitute grounds for discipline, including but not limited to suspension or revocation of licensure.

14. Pursuant to 10 M.R.S.A. § 8003(5)(B) the Board and Dr. Butlers agree that, in addition to any other disciplinary action available to it by law, the Board has the authority to issue an order modifying, suspending, or revoking his license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

15. Dr. Butlers waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement.

16. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by all the parties hereto.

17. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Butlers or any other matter relating to this Consent Agreement.

18. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.

19. This Consent Agreement constitutes adverse licensing action that is reportable to the National Practitioner Data Bank (N.P.D.B.) and the Healthcare Integrity and Protection Data Bank (H.I.P.D.B.).

20. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

21. The term of this Consent Agreement is indefinite from the date of execution, and remains in full force and effect so long as Dr. Butlers is licensed with the Board and complies with the terms and conditions of this Consent Agreement.

22. Dr. Butlers may request amendments or changes to this Consent Agreement by submitting a request in writing to the Board, which may decide the matter without a hearing.

I, GEORGE H. BUTLERS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: August 26, 2010

Province of Ontario
STATE OF Ontario

George H. Butlers MD
GEORGE H. BUTLERS, M.D.

_____, S.S.

Personally appeared before me the above-named George H. Butlers, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: Aug 26/2010

[Signature]
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:

Nov / 2010



STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 9/14/2010

Sheridan R. Oldham, M.D.
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 9/14/10

Dennis E. Smith
DENNIS E. SMITH
Assistant Attorney General

SUPERVISING PHYSICIAN

BY SIGNING BELOW, I CERTIFY THAT I AM VOLUNTARILY AGREEING TO ACT AS THE SUPERVISING PHYSICIAN UNDER THE TERMS AND CONDITIONS OF THIS CONSENT AGREEMENT, THAT I UNDERSTAND MY OBLIGATIONS UNDER THIS CONSENT AGREEMENT AND THAT I WILL FULFILL THEM, AND THAT I AM NOT A PARTY TO THIS CONSENT AGREEMENT AND WILL BE ACTING AS AN AGENT FOR THE BOARD IN ENSURING DR. BUTLERS' COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS CONSENT AGREEMENT.

DATED: _____

_____, M.D.
Supervising Physician

Effective Date:

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:)	CONSENT AGREEMENT
PAUL A. TESSIER, M.D.)	FOR DISCIPLINE AND
CR10-036)	RESTRICTED/CONDITIONAL
)	LICENSURE

This document is a Consent Agreement For Discipline and Restricted/Conditional Licensure, effective when signed by all parties, regarding discipline imposed upon and the issuance of an active conditional license to practice medicine in the State of Maine to Paul A. Tessier, ~~Dr.~~ M.D. The parties to this Consent Agreement are: Paul A. Tessier, M.D. ("Dr. Tessier"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Department of Attorney General.

STATEMENT OF FACTS

1. The Board first issued Dr. Tessier a medical license on June 1, 1971. Dr. Tessier retired from the active practice of medicine in 1999.
2. On September 26, 2006, the Board received an application from Dr. Tessier to renew his Maine medical license in "inactive" status. On October 1, 2006, the Board issued Dr. Tessier an inactive Maine medical license.
3. On November 16, 2009, the Board received a letter from Dr. Tessier informing it that he had been informed by his Regional Flight Surgeon that Dr. Tessier could no longer serve as an Aviation Medical Examiner (A.M.E.) due to his "inactive" Maine medical license status.
4. On or about November 24, 2009, the Board received an application

from Dr. Tessier to renew his Maine medical license in "active" status. While collecting information regarding this application, the Board received a letter sent by the U.S. Department of Transportation, Federal Aviation Administration (F.A.A.) to Dr. Tessier on November 13, 2009. According to that letter, the F.A.A. terminated Dr. Tessier's designation as an A.M.E. because he did not have an "active" license to practice medicine. Additional information revealed that Dr. Tessier had performed 75 aviation medical examinations each year since October 2006, during which time he held an "inactive" Maine medical license. F.A.A. Orders require an A.M.E. to hold an "active" medical license.

5. On or about November 25, 2009, the Board received a letter from Dr. Tessier requesting a provisional active medical license "limited to aviation medical examinations."

6. On December 8, 2009, the Board preliminarily denied Dr. Tessier's application for an "active" Maine medical license based upon his failure to demonstrate "active practice in another state for at least 3 months of the year preceding the request for conversion" as required by Board rule, Chapter 2, Section 3, Paragraph 2.

7. On February 4, 2010, the Board received a written request from Dr. Tessier to appeal the Board's decision.

8. On January 12, 2010, the Board initiated a complaint against Dr. Tessier's Maine medical license based upon his alleged practice of medicine

without a license by performing A.M.E. without an "active" Maine medical license as required by the F.A.A. The Board docketed the complaint as CR10-036.

9. On June 10, 2010, the Board received a response from Dr. Tessier to complaint CR10-036. In his response, Dr. Tessier indicated that since 1999 he has limited his practice of medicine to performing aviation medical examinations, and that if he found an anomaly during an examination, he did not treat them and referred the airman to his/her own practitioner. According to Dr. Tessier, since he did not treat the airmen, he did not feel that he was practicing medicine.

10. On July 13, 2010, the Board reviewed complaint CR10-036. Following its review, the Board voted to set the matter for an adjudicatory hearing. In addition, the Board authorized its legal counsel to offer a consent agreement to Dr. Tessier to resolve complaint CR10-036 and his pending license application.

11. This Consent Agreement has been negotiated by Dr. Tessier and legal counsel for the Board in order to resolve complaint CR10-036 and his pending license application without an adjudicatory hearing. Absent Dr. Tessier's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before September 10, 2010, the Board will resolve

these matters by holding a consolidated adjudicatory hearing at a later date.

12. By signing this Consent Agreement, Dr. Tessier waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on September 14, 2010. Dr. Tessier also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

In lieu of proceeding to an adjudicatory hearing to appeal the Board's preliminary denial, the Board and Dr. Tessier agree to the following:

13. Dr. Tessier concedes that based upon the facts described in paragraphs 1 to 8 above that the Board has sufficient evidence from which it could conclude that he engaged in unprofessional conduct by conducting F.A.A. aviation medical examinations without having an "active" Maine medical license. Dr. Tessier concedes that such conduct constitutes grounds for discipline and the denial of his application to renew/reinstate his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

14. As discipline for the conduct admitted above, Dr. Tessier agrees to:

a. Accept a REPRIMAND. As a medical professional and licensee of the Board, Dr. Tessier should have been aware of the limitations of his "inactive" medical license and the fact that he needed an "active" medical license in order to perform F.A.A. aviation medical examinations.

b. Pay a civil penalty of Three Thousand Dollars and Zero Cents (\$3000.00). Payment of the fine shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 0433-0137. Full payment of the fine shall occur on or before September 14, 2011.

15. The Board agrees to issue and Dr. Tessier agrees to accept an "active" Maine medical license subject to the following restrictions/conditions:

a. Dr. Tessier will limit his practice of medicine to the following only:

(i) Performing as an aviation medical examiner, conducting aviation medical examinations for the F.A.A. and Transport Canada.¹

(ii) Performing adult physical examinations for the Coast Guard, the Department of Transportation, or life insurance companies.

b. Dr. Tessier shall not apply to the Board for a full and unrestricted "active" medical license in light of his lack of active medical practice since 1999.

¹ Transport Canada is the Department of Transport for Canada, which is the federal department responsible for Canadian transportation policies. Its oversight activities include civil aviation medical examinations. This Consent Agreement permits Dr. Tessier to perform civil aviation medical examinations for Transport Canada in accordance with Canadian laws.

- c. Dr. Tessier will keep careful records of all his examinations.
- d. Dr. Tessier will not hold himself out to the public as a fully practicing physician and will not accept patients for clinical care.
- e. Dr. Tessier will not advertise services other than as an aviation medical examiner.
- f. Dr. Tessier will not seek hospital privileges.
- g. Dr. Tessier will keep current with the continuing medical education requirements and will conform to all requirements imposed by this license.

16. Dr. Tessier waives his right to a hearing before the Board or any court regarding all findings, terms, restrictions and conditions of this Consent Agreement. Dr. Tessier agrees that this Consent Agreement is a final order resolving complaint CR10-036 and his pending application for licensure. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

17. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Tessier or any other matter relating to this Consent Agreement.

18. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public

pursuant to 1 M.R.S. § 408. This Consent Agreement constitutes disciplinary and adverse licensing action that is reportable to the Federation of State Medical Boards (FSMB), the National Practitioner Data Bank (NPDB), and the Healthcare Integrity and Protection Data Bank (HIPDB).

19. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

20. The Board and Dr. Tessier agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR10-036, except or unless he fails to comply with the terms and conditions of this Consent Agreement.

21. Dr. Tessier acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for additional disciplinary action against his Maine medical license, including but not limited to an order, after hearing, imposing additional fines and costs.

22. Dr. Tessier acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

P.A. T.
I, PAUL A. TESSIER, JR., M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

Dated:

09/08/2010

Paul A. T.
PAUL A. TESSIER, M.D.

STATE OF

New Hampshire
Rochester, S.S.

Personally appeared before me the above-named, Paul A. Tessier, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

9-8-10

Betty Ann Fisk
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:

BETTY ANN FISK
NOTARY PUBLIC

STATE OF NEW HAMPSHIRE
My Commission Expires October 5, 2010

STATE OF MAINE BOARD OF
LICENSURE IN MEDICINE

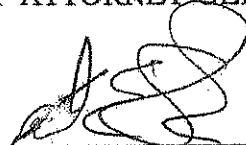
Dated:

9/14/2010

Sheridan R. Oldham, MD
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF ATTORNEY GENERAL

Dated: 9/14/10



DENNIS E. SMITH
Assistant Attorney General

Effective Date: 9/14/10

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT AGREEMENT FOR
Clifford Singer, M.D.)	CONDITIONAL LICENSURE
Application for Licensure)	

This document is a Consent Agreement for Conditional Licensure regarding the license application of Clifford Singer, M.D. to practice medicine in the State of Maine. The effect of this Consent Agreement is to issue a conditional license to practice medicine to Clifford Singer, M.D. The parties to this Consent Agreement are: Clifford Singer, M.D. ("Dr. Singer"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Office of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

FACTUAL BACKGROUND

1. On April 21, 2010, the Board received an application from Clifford Singer, M.D. to practice medicine in the State of Maine. His medical specialty is psychiatry, in which he is board certified.

2. On his application for licensure, Dr. Singer disclosed that he was under investigation by the Vermont Medical Board regarding self-prescribing for attention deficit disorder and for severely delinquent record-keeping. The Vermont Board of Medical Practice investigation found that Dr. Singer actually did have a legitimate prescription for attention disorder medication but that for

a time he continued to take samples of the medication without receiving another prescription and without physician oversight. The investigation also concluded that Dr. Singer's attention disorder and significant family and circumstantial issues played a role in his delinquent medical record keeping. Dr. Singer provided the Board with a copy of a proposed "Stipulation and Consent Order" prepared by Assistant Attorney General Margaret O. Vincent, which Dr. Singer signed on April 7, 2010. On June 24, 2010, the Board received a copy of the fully executed "Stipulation and Consent Order" approved by the Vermont Board of Medical Practice. A copy of that document is attached to and incorporated into this Consent Agreement for Conditional Licensure as "Exhibit A."

3. On July 13, 2010, the Board reviewed Dr. Singer's application for licensure. Following its review, the Board voted to offer Dr. Singer this Consent Agreement for Conditional Licensure in order to grant him a conditional license to practice medicine in this State.

COVENANTS

4. Dr. Singer admits that his recent discipline by the Vermont Board of Medical Practice, together with the facts and circumstances underlying that discipline, constitutes unprofessional conduct and grounds for the denial of his application for a Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F). In the interest of resolving his application for licensure expeditiously and

continuing his full cooperation with the Board, Dr. Singer agrees to enter into this Consent Agreement for Conditional Licensure.

5. In light of the admissions in paragraphs 1-4 above, the Board and Dr. Singer agree that Dr. Singer will be issued a conditional license to practice medicine in the State of Maine. Until this Consent Agreement is modified in writing by all of the parties hereto, Dr. Singer's license to practice medicine in Maine shall be subject to the following condition(s) for the next three (3) years following the execution¹ of this Consent Agreement:

a. Dr. Singer agrees that he will not use sample medication without a prescription for his own treatment.

b. Dr. Singer agrees to attend regularly scheduled appointments with his treating physician. Dr. Singer agrees to use only the medication that is specifically prescribed by his treating physician (i.e. that he will not self-prescribe any medication), and will ensure that he is properly monitored by his physician.

c. Dr. Singer shall promptly execute any and all necessary release forms and/or waivers of confidentiality to allow the Board, Board Investigator, or an Assistant Attorney General to: (i) obtain copies of any of his medical or treatment records; and (ii) contact/communicate with any medical or treatment provider from whom he is receiving care or

¹ For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

counseling.

d. Dr. Singer understands and agrees that he will timely complete all medical record documentation. In complying with this requirement, Dr. Singer shall ensure that all medical records/charts are updated within 24 hours of each patient encounter.

e. Dr. Singer agrees to have a Professional Monitor approved by the Board to review his medical charts for a period of three (3) years. The Professional Monitor shall be an agent of the Board pursuant to Title 24 M.R.S.A. § 2511. Dr. Singer shall ensure that the Professional Monitor provides the Board with quarterly reports regarding Dr. Singer's record keeping on the following dates of each calendar year following the execution of this Consent Agreement: October 20th; January 20th; April 20th; July 20th. In addition to the quarterly reporting requirement, the Professional Monitor shall immediately inform the Board if Dr. Singer is unable to meet the record-keeping requirements of paragraph 5(d) of this Consent Agreement. Dr. Singer shall promptly execute any and all necessary release forms and/or waivers of confidentiality to allow the Board, Board Investigator, or an Assistant Attorney General to: (i) obtain copies of any medical or treatment records of concern to the Professional Monitor; and (ii) contact/communicate with the Professional Monitor.

f. Dr. Singer agrees to provide a copy of this Consent Agreement for Conditional Licensure to: (i) any prospective employer,

employer or contractor or partnership involved in his practice of medicine in the State of Maine; (ii) any State medical board or other licensing authority in any location or jurisdiction where he may seek to practice or where he may make application for licensure, so long as this agreement remains in effect; and (iii) his Professional Monitor approved by the Board.

g. Dr. Singer agrees to attend and successfully complete the Case Western Intensive Course in Medical Record Keeping with Individual Preceptorships within six (6) months of the execution of this Consent Agreement. Dr. Singer shall provide the Board with documented proof of his attendance and successful completion of this course.

h. Dr. Singer agrees to bear all costs associated with his compliance with the terms and conditions of this Consent Agreement for Conditional Licensure.

6. Dr. Singer agrees that any failure by him to comply with any of the terms or conditions of this Consent Agreement for Conditional Licensure shall constitute unprofessional conduct pursuant to 32 M.R.S.A. § 3282-A(2)(F), and may subject him to disciplinary action as the Board may deem appropriate.

7. Pursuant to 10 M.R.S.A. § 8003(5)(B) the Board and Dr. Singer agree that, in addition to any other disciplinary action available to it by law, the Board has the authority, following hearing, to impose discipline, including

modifying, suspending, or revoking his Maine medical license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

8. This Consent Agreement may only be modified in writing by all of the parties hereto.

9. Dr. Singer waives any further hearings before the Board or appeal to the Courts regarding all terms and conditions of this Consent Agreement for Conditional Licensure.

10. The Board and the Attorney General may communicate and cooperate regarding Dr. Singer's medical practice or any other matter relating to this Consent Agreement.

11. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.

12. This Consent Agreement constitutes adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

13. Dr. Singer acknowledges that he had the opportunity to consult with legal counsel regarding this Consent Agreement for Conditional Licensure, and that he chose to represent himself. Dr. Singer agrees and understands that, by executing this document, he is waiving any right to a hearing

regarding his application for licensure, any challenge to the jurisdiction of the Board, or to present evidence and witnesses on his behalf.

14. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

I, CLIFFORD SINGER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT FOR CONDITIONAL LICENSURE AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS DOCUMENT, I WAIVE CERTAIN RIGHTS, INCLUDING A RIGHT TO A HEARING BEFORE THE BOARD. I HAVE HAD AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THIS DOCUMENT. I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT FOR CONDITIONAL LICENSURE CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 21 July 2010

Cliff Singer
CLIFFORD SINGER, M.D.

STATE OF Maine

Penobscot County, S.S.

Personally appeared before me the above-named Clifford Singer, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 7-21-2010

Nancy R. Barrows
7

NANCY R. BARROWS
Notary Public • State of Maine
My commission expires February 21, 2017

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

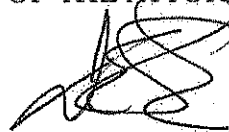
7/23/2010


SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED:

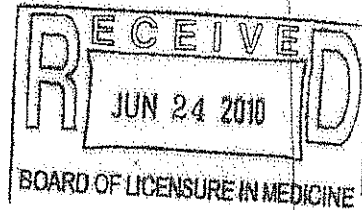
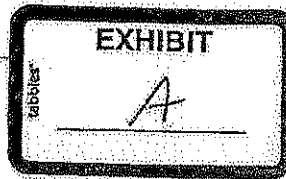
7/29/10



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

7/29/10



STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Clifford Singer, M.D.

)
) Docket No. MPS 97-0809
)
)
)

STIPULATION AND CONSENT ORDER

NOW COME Clifford Singer, M.D. ("Respondent") and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned counsel, Assistant Attorney General Margaret O. Vincent, and agree and stipulate as follows:

1. Clifford Singer, M.D., Respondent, is a psychiatrist and holds Vermont License #042-0010939. Respondent worked for Fletcher Allen Hospital as well as Washington County Mental Health.
2. Jurisdiction rests in the Vermont Board of Medical Practice (the "Board") pursuant to 26 V.S.A. §§ 1353 and 1354.
3. Respondent acknowledges that he knowingly and voluntarily enters into this Stipulation and Consent Order. He acknowledges that he had the opportunity to consult with counsel and that he chose to represent himself. He agrees and understands that, by executing this document, he is waiving any right to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in these matters, to be presented with the evidence against him, to cross-examine adverse witnesses, and to offer evidence of his own to contest the State's charges. 26 V.S.A. § 1356; 3 V.S.A. §§ 809, & 814.

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GENERAL
Montpelier,
Vermont 05609

I. FACTUAL FINDINGS

4. An investigation against the Respondent was opened by the Board in August of 2009. The investigation focused on two separate issues. One was that Respondent used sample medications as opposed to having his physician prescribe medications. The other issue was Respondent's incomplete medical charts.

5. The Board's investigation included interviewing Respondent, employers of Respondent as well as his treating physicians.

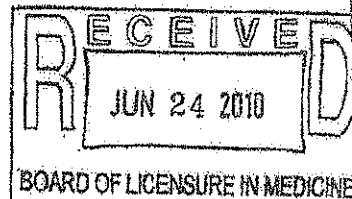
6. In 2008, on two separate occasions Respondent received samples of Provigil from Takeda Pharmaceutical. Respondent admits that he had a prescription from his physician for Provigil and that he took the samples and for a time he continued to take the samples without receiving another prescription and without having a physician monitor the medication.

7. Provigil is listed as a Schedule IV of the Controlled Substances Act. Provigil is indicated to improve wakefulness in patients with excessive sleepiness. Provigil has been prescribed on occasion for ADD and ADHD.

8. Respondent in late 2009, resigned from his position with Fletcher Allen Health Center ("FAHC") and in early 2010 he resigned from Washington County Mental Health. During 2009, the Respondent was working two jobs, and it became apparent that he was not completing his medical charts or his billing in a timely fashion. In some instances Respondent was six months behind in writing notes into his patients' charts.

9. Respondent suffers from a mild form of ADD.

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10. Respondent's ADD along with significant family and circumstantial issues, that Respondent indicates are resolved, played a role in his inability to keep current on his medical charts and his billing.

11. Respondent acknowledges that he needs a more structured work environment with significant administrative support.

12. Consistent with his continuing cooperation with the Board in its investigation of this matter, Respondent does not contest the facts set forth above in paragraphs 4 through 11 above and agrees that the Board of Medical Practice may adopt and enter paragraphs 4 through 11 as uncontested findings of fact in this matter.

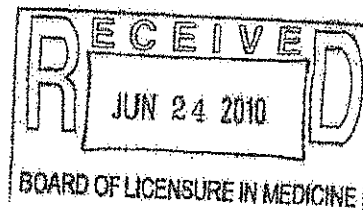
13. No specification of charges has been filed by the State in this matter. Respondent has not previously been the subject of disciplinary action by the Vermont Board of Medical Practice. Respondent has cooperated with the Board of Medical Practice during its investigation of this matter.

II. CONCLUSIONS OF LAW

14. Respondent agrees that 26 V.S.A. § 1354 (b) (2) states that "The board may also find that failure to practice competently by reason on any cause on a single occasion or on multiple occasions constitutes unprofessional conduct. Failure to practice competently includes, as determined by the board: (2) failure to conform to the essential standards of acceptable and prevailing practice.

15. Respondent agrees that his failure to keep current with medical record documentation and billing while employed at Fletcher Allen Hospital constitutes unprofessional conduct.

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Vermont 05609



16. Rule 4.3 of the Vermont Board of Medical Practice states "it is unacceptable medical practice and unprofessional conduct for a licensee to prescribe controlled substances listed in DEA Schedules II, III, and IV for his or her own use."

17. Respondent violated Rule 4.3 when he took samples of Provigil without having his prescription renewed. Respondent states that he was not aware he was violating Rule 4.3.

18. Respondent voluntarily met with Dr. David Simmons then Medical Director for Vermont Practitioner Health Program. Dr. Simmons opined that Respondent's history was not consistent with substance abuse or dependence.

III. ORDER

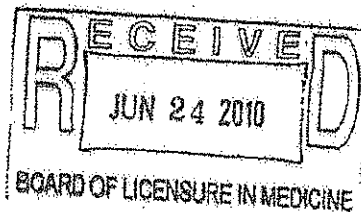
19. Respondent agrees that he will not use sample medication without a prescription for his own treatment.

20. Respondent agrees that he will attend regularly schedule appointments with his treating physician. He will only take medication that is prescribed by his treating physician and he will ensure that he is properly monitored by his physician.

21. Respondent agrees that he shall promptly sign any and all necessary consents and/or waivers of confidentiality allowing a Board investigator or an Assistant Attorney General to speak with any treatment provider that he is receiving treatment from for the purpose of gaining information to aid the Board's oversight responsibilities.

22. Respondent understands and agrees that all of his patients' medical charts will be kept current. Respondent's charts will be updated within 24 hours of each encounter with his patients.

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GENERAL
Montpelier,
Vermont 05609



23. Respondent agrees that he will have a professional monitor approved either by the South Committee or the Board of Medical Practice to review his medical charts for a period of three years. Respondent agrees that his Professional Monitor will provide quarterly reports regarding Respondent's medical record keeping. The Professional Monitor will inform the Board immediately, if Respondent is not able to keep current with his medical charts.

24. Respondent agrees to sign any and all necessary consents and/or waivers of confidentiality to allow a Board investigator or an Assistant Attorney General to speak with his Professional Monitor.

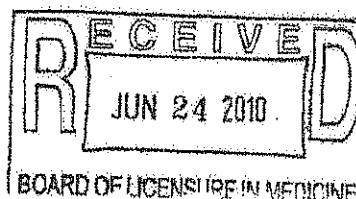
25. Respondent agrees to provide copies of this Stipulation and Consent Order to any prospective employer, employer or contractor or partnership involved in Respondent's practice of medicine and to any State medical board or other licensing authority in any location or jurisdiction where he may seek to practice or where he may make application, so long as this agreement remains in effect. Respondent agrees to provide copies of this Stipulation and Consent Order to his Professional Monitor.

26. Respondent agrees to attend the Case Western Intensive Course in Medical Record Keeping with Individual Preceptorships within 6 months of this signed stipulation. Respondent shall provide proof of attendance and completion of the course to the Board.

27. Respondent shall bear all costs to the above conditions. Respondent's Vermont license to practice medicine shall include the designation "Conditioned" for 3 years. The Respondent bears the burden of presenting a petition for the removal of or relief from conditions at the conclusion of the three year period.

28. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Respondent's licensing file, and shall be reported to other

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GENERAL
Montpelier,
Vermont 05609



licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.

29. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enter an order Conditioning Respondent's Medical License as set forth above, that such certificate be subject to each of the terms and conditions as set forth herein.

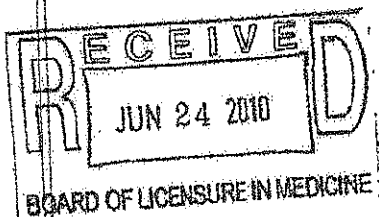
30. Respondent agrees to be bound by all terms and conditions of this Stipulation and Consent Order. Respondent agrees that any failure by him to comply with the terms of this Stipulation and Consent Order, specifically including but not limited to its reporting requirements, shall constitute unprofessional conduct under 26 V.S.A. §1354 (a) (25) and may subject Respondent to such further disciplinary action as the Board may deem appropriate.

31. Consistent with his continuing cooperation with the Board, Respondent agrees that, if the State were to satisfy its burden at hearing as to the allegations, a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. §1354. In the interest of resolving this matter expeditiously and continuing his full cooperation in this matter, Respondent agrees to enter into this Stipulation, in lieu of the State filing formal charges.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

Dated at Montpelier, Vermont, this 7 day of April, 2010.

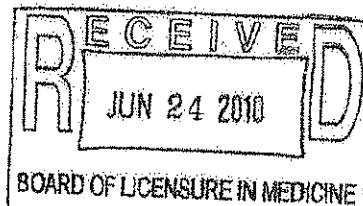
STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL



by: Margaret O. Vincent
MARGARET O. VINCENT
Assistant Attorney General

Dated at Montpelier, Vermont, this 7th day of April, 2010.

Cliff Singer
CLIFFORD SINGER, M.D.

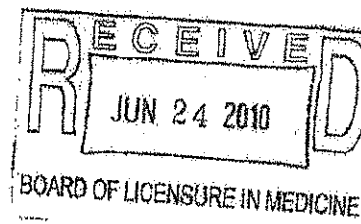


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ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

FOREGOING, AS TO CLIFFORD SINGER, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

DATED: 4/7/2010
ENTERED AND EFFECTIVE: 4/7/2010



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ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609